IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 13679 of 1999

Between:

The General Manager, Kothagudem Area,
Singareni Collieries Company Limited,

Venkateshkhani (PO),
District Khammam -- 507 118.

..... PETITIONER

AND

The General Secretary, Coal Mines
Employees' Union, Ramavaram, Panjabadda, Kothagudem,
District; Khammam -- 507 118, and 3 others

.....RESPONDENTS

ORDER:

This writ petition is filed by the General Manager, M/s.Singareni Collieries Company Limited, Khammam District, being aggrieved by the award passed by the Industrial Tribunal-I, Hyderabad in I.D.No.135 of 1996, dated 26.03.1998.

It is the case of the petitioner that the 4th respondent was appointed as a General Mazdoor and since he was not able to perform the duties of General Mazdoor, he was entrusted with clerical job in the dispensary of the Singareni Collieries, and his main function is issuing outpatient chits to the patients who come to the dispensary. The

4th respondent himself had sought for such work and further gave an undertaking that he will not claim any allowances for having worked as a Clerk.

There is no dispute as to the facts of the case. The evidence of M.W.1 (Medical Officer) discloses that the 4th respondent being a physically handicapped person (deformity of left leg), was instructed to discharge clerical functions. He further deposed that the

4th respondent is making the patients to stand in a queue, carrying the papers, cleaning the doctor's table, attending to the doctor's instructions and other miscellaneous jobs i.e. issuing chits to the patients when the regular clerk was on leave or when the patients are too many and clerk could not cope up with the work. He also admitted that about 500 to 600 patients visit the dispensary every day and so necessarily, the regular clerk has to take the assistance of the 4th respondent. However, according to the Medical Officer, M.W.1, the 4th respondent himself gave Ex.M1 application that he may be permitted to attend to light work and that he would not claim acting allowance. However, the fact that the

4th respondent, working as Chit Issuer, has been certified by M.W.1 on Ex.W4 identity card. In fact, the 4th respondent under Ex.W5 application for promotion as Clerk Grade-III mentioned that he passed XI in multipurpose and he has been doing the work of chit issuer. Further, the Union also raised this subject matter as Demand

No.31 in Ex.W6. Therefore, the Management agreed under Ex.W7 minutes that the 4th respondent and another are working against identified vacancies and that they are entitled to acting allowances and the Management promised to examine the same. However, the 4th respondent was not given any promotion. Subsequently, there was a settlement under Ex.M2 on 31.07.1997 between the recognized unions and the management. Item No.3 bearing heading "Regularization of all acting clerks etc." which reads as under:

> "The graduates without typewriting, non-graduates i.e. Intermediate/SSC/Matriculation are eligible to be considered as Clerk Grade-III subject to assessment report and interview"
>
> It is also mentioned in Clause 6(a) that "at the first instance 181 vacancies of clerks Grade-II/Grade-III will be filled up by the end of September, 1997 in order to seniority through assessment report and interview." In clause 6(b) it was mentioned "the remaining eligible acting clerks about 93 will be absorbed as per requirement in phased manner by the end of December, 1997"

The Personnel Officer MW 2 stated in his chief examination that the 4th respondent is not qualified, but admitted in the cross examination that the 4th respondent is having academic qualification and experience for being posted as Clerk Grade-III.

In the light of the above discussion as noticed by the Labour Court, the contention of the learned counsel for the petitioner that the Labour Court has not evaluated the factual position properly and the

4th respondent is not entitled for regularization of his services cannot be accepted. It is not the case of the Management that the 4th respondent was not engaged as a clerk and that there was a settlement between the unions and the management as to regularization of the persons working as clerks. It is also not their case that the 4th respondent as well as others who are working against the identified vacancies are not entitled for acting allowances. May be, the 4th respondent out of anxiety, might have stated that he will not claim the acting allowance for having worked as a clerk in the dispensary. That itself does not mean that the 4th respondent is not entitled for regularization as per the settlement and as per the experience as conceded by the management witnesses MWs 1 and 2. The petitioner has not made out any ground to interfere with the award passed by the Labour Court directing the petitioner herein to appoint the 4th respondent as clerk Grade-III in any one of its Departments in the

State of Andhra Pradesh. The findings of the Labour Court do not suffer from any infirmities or any illegalities so as to call for interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs. The interim order, if any, shall stands vacated.

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C.V.RAMULU,J

Dated: 03.08.2005

Dsr